

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0125-IHW-E **TCEQ ID:** RN101859445 **CASE NO.:** 38981
RESPONDENT NAME: BFI Waste Services of Texas, LP dba Allied Waste

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Allied Waste, 5301 Brookglen Drive, Houston, Harris County</p> <p>TYPE OF OPERATION: Waste transportation facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 28, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2563; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Burgess Stengl, Environmental Manager, BFI Waste Services of Texas, LP dba Allied Waste, 5301 Brookglen Drive, Houston, Texas 77017 Mr. Bryan Boyer, General Manager, BFI Waste Services of Texas, LP, 5301 Brookglen Drive, Houston, Texas 77017 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 4, 2009</p> <p>Date of NOE Relating to this Case: December 1, 2009</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>Failure to prevent the shipment of class 1 industrial waste to an unauthorized facility. Specifically, on April 4, 2008, the Respondent transported three loads of Class 1 industrial waste to a facility which is not authorized to dispose of Class 1 waste [30 TEX. ADMIN. CODE § 335.2(b)].</p>	<p>Total Assessed: \$7,650</p> <p>Total Deferred: \$1,530 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,060</p> <p>Total Paid to General Revenue: \$3,060</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Removed the Class I industrial solid waste from the unauthorized facility and disposed of the waste at an authorized disposal site on April 9, 2008; and</p> <p>b. On April 21, 2008, corrected an error in the truck routing system and implemented manifest procedures to insure that the waste picked up matches the Allied Waste profile number on the driver's manifest.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p>

Additional ID No(s): 85812

Attachment A
Docket Number: 2010-0125-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	BFI Waste Services of Texas, LP dba Allied Waste
Penalty Amount:	Six Thousand One Hundred Twenty Dollars (\$6,120)
SEP Offset Amount:	Three Thousand Sixty Dollars (\$3,060)
Type of SEP:	Pre-approved
Third-Party Recipient:	Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Dec-2009	Screening	5-Jan-2010	EPA Duo	
	PCW	6-Jan-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	BFI Waste Services of Texas, LP dba Allied Waste
Reg. Ent. Ref. No.	RN101859445
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38981	No. of Violations	1
Docket No.	2010-0125-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Shelton
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **27.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,025**

Notes Enhancement for one Agreed Order containing a denial of liability, one NOV with dissimilar violations, and one NOV with same or similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,875**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$6**
 Approx. Cost of Compliance **\$6,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,650**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Reduction **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$7,650**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,650**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,530**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,120**

Screening Date 5-Jan-2010

Docket No. 2010-0125-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP dba Allied Waste

Policy Revision 2 (September 2002)

Case ID No. 38981

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101859445

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Shelton

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability, one NOV with dissimilar violations, and one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date: 5-Jan-2010

Docket No.: 2010-0125-IHW-E

PCW

Respondent: BFI Waste Services of Texas, LP dba Allied Waste

Policy Revision 2 (September 2002)

Case ID No.: 38981

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101859445

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: John Shelton

Violation Number: 1

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b)

Violation Description

Failed to prevent the shipment of Class 1 Industrial waste to an unauthorized facility. Specifically, on April 4, 2008, the Respondent transported three loads of Class 1 Industrial waste to a facility which is not authorized to dispose of Class 1 waste.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed protective levels as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 3 17 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty: \$7,500

Three single events are recommended, one for each shipment.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent came into compliance on April 21, 2008.

Violation Subtotal: \$6,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$8

Violation Final Penalty Total: \$7,650

This violation Final Assessed Penalty (adjusted for limits): \$7,650

Economic Benefit Worksheet

Respondent: BFI Waste Services of Texas, LP dba Allied Waste
Case ID No.: 38981
Reg. Ent. Reference No.: RN101859445
Media: Industrial and Hazardous Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,000	4-Apr-2008	21-Apr-2008	0.05	\$2	n/a	\$2
Remediation/Disposal	\$5,000	4-Apr-2008	9-Apr-2008	0.01	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of the Class I waste at an authorized facility and the estimated cost to develop and implement procedures to ensure that all wastes are transported only to facilities authorized to accept them. The Training/Sampling Date Required is the date of the unauthorized disposal and the Final Date is the date of compliance. The Remediation/Disposal Date Required is the date of the unauthorized disposal and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

3

TOTAL

\$6

Compliance History Report

Customer/Respondent/Owner-Operator: CN601527963 BFI Waste Services of Texas, LP Classification: AVERAGE Rating: 3.43
Regulated Entity: RN101859445 ALLIED WASTE Classification: AVERAGE Site Rating: 16.83

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION 71219
REGISTRATION
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000015701
GENERATION
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 85812
GENERATION (SWR)
SLUDGE REGISTRATION 21518
STORMWATER PERMIT TXR050072
TIRES REGISTRATION 6200335

Location: 5301 BROOKGLEN DR, HOUSTON, TX, 77017

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 11, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 11, 2005 to January 11, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: (512) 239-2563

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?
BFI Waste Services of Texas, LP
4. If Yes, who was/were the prior owner(s)/operator(s) ?
BFI Waste Systems of North America, Inc.
BFI Services Group, Inc.
5. When did the change(s) in owner or operator occur?
07/01/2009
BFI Waste Systems of North America, Inc.
BFI Services Group, Inc.

6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/26/2007

ADMINORDER 2006-1029-IHW-E

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.11(h)(1)

30 TAC Chapter 335, SubChapter A 335.2(b)

Description: Failed to transport a manifested Class 1 industrial waste to a designated authorized facility shown on the manifest which was authorized to accept the waste.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.11(a)(1)

Description: Failed to obtain a properly completed manifest for a Class I industrial waste.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/24/2006	(464215)
2	07/12/2006	(482142)
3	09/11/2006	(489003)

4	11/03/2006	(516955)
5	07/17/2007	(567814)
6	12/01/2009	(783305)
7	12/02/2009	(783652)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/22/2006	(464215)	CN601527963
Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)
Description: The facility transported processed scrap tires from La Porte Tire Center, but is unauthorized to transport processed scrap tires.

Date:	09/11/2006	(489003)	CN601527963
Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)
Description: Transported a Class 1 waste from the generator's facility to an unauthorized disposal facility.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BFI WASTE SERVICES OF TEXAS,
LP DBA ALLIED WASTE
RN101859445

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0125-IHW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BFI Waste Services of Texas, LP dba Allied Waste ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a waste transportation facility at 5301 Brookglen Drive in Houston, Harris County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 6, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Six Hundred Fifty Dollars (\$7,650) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Sixty Dollars (\$3,060) of the administrative penalty and One Thousand Five Hundred Thirty Dollars (\$1,530) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Three Thousand Sixty Dollars (\$3,060) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Removed the Class I industrial solid waste from the unauthorized facility and disposed of the waste at an authorized disposal site on April 9, 2008; and
 - b. On April 21, 2008, corrected an error in the truck routing system and implemented manifest procedures to insure that the waste picked up matches the Allied Waste profile number on the driver's manifest.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to prevent the shipment of class 1 industrial waste to an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on November 4, 2009. Specifically, on April 4, 2008, the Respondent transported three loads of Class 1 industrial waste to a facility which is not authorized to dispose of Class 1 waste.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BFI Waste Services of Texas, LP dba Allied Waste, Docket No. 2010-0125-IHW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Sixty Dollars (\$3,060) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

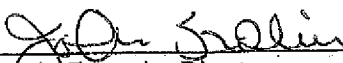
Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

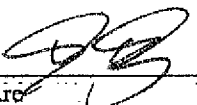
Date 6/10/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 4-13-10

Bryan Boyer
Name (Printed or typed)
Authorized Representative of
BFI Waste Services of Texas, LP dba Allied Waste

Title G.M.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2010-0125-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: BFI Waste Services of Texas, LP dba Allied Waste
Penalty Amount: Six Thousand One Hundred Twenty Dollars (\$6,120)
SEP Offset Amount: Three Thousand Sixty Dollars (\$3,060)
Type of SEP: Pre-approved
Third-Party Recipient: Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash
Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

